

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34680

STATE OF IDAHO,)	2010 Unpublished Opinion No. 312
)	
Plaintiff-Respondent,)	Filed: January 19, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
ELIJAH JAMES ANDERSON,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Seventh Judicial District, State of Idaho, Bonneville County. Hon. Richard T. St. Clair, District Judge.

Judgment of conviction for felony fleeing or attempting to elude a peace officer with a persistent violator enhancement, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

GRATTON, Judge

Elijah James Anderson appeals from the judgment of conviction entered upon a jury verdict finding him guilty of felony fleeing or attempting to elude a peace officer, I.C. § 49-1404(2), with enhancement, I.C. § 19-2514. We affirm.

I.

FACTS AND PROCEDURAL BACKGROUND

Anderson was convicted, following a jury trial, of felony fleeing or attempting to elude a peace officer. He subsequently pled guilty to a persistent violator sentencing enhancement. He was sentenced to a term of imprisonment of eight years, with three years determinate. Anderson appeals.

II. ANALYSIS

Anderson contends that the State presented insufficient evidence to prove beyond a reasonable doubt that he was guilty of felony fleeing or attempting to elude a peace officer. Specifically, Anderson claims that the State's evidence was insufficient to establish beyond a reasonable doubt (1) that, under a reasonable person standard, he knew or should have known that the visual signal given by the officers was intended to bring his pursued vehicle to a stop, and (2) that he had actually seen the visual signal given by the officers such that he knew he was being pursued and intended to elude.

Appellate review of the sufficiency of the evidence is limited in scope. A finding of guilt will not be overturned on appeal where there is substantial evidence upon which a reasonable trier of fact could have found that the prosecution sustained its burden of proving the essential elements of a crime beyond a reasonable doubt. *State v. Herrera-Brito*, 131 Idaho 383, 385, 957 P.2d 1099, 1101 (Ct. App. 1998); *State v. Knutson*, 121 Idaho 101, 104, 822 P.2d 998, 1001 (Ct. App. 1991). We will not substitute our view for that of the trier of fact as to the credibility of the witnesses, the weight to be given to the testimony, and the reasonable inferences to be drawn from the evidence. *Knutson*, 121 Idaho at 104, 822 P.2d at 1001; *State v. Decker*, 108 Idaho 683, 684, 701 P.2d 303, 304 (Ct. App. 1985). Moreover, we will consider the evidence in the light most favorable to the prosecution. *Herrera-Brito*, 131 Idaho at 385, 957 P.2d at 1101; *Knutson*, 121 Idaho at 104, 822 P.2d at 1001.

Idaho Code § 49-1404(1) provides:

Any driver of a motor vehicle who wilfully flees or attempts to elude a pursuing police vehicle when given a visual or audible signal to bring the vehicle to a stop, shall be guilty of a misdemeanor. The signal given by a peace officer may be by emergency lights or siren. The signal given by a peace officer by emergency lights or siren need not conform to the standards for decibel ratings or light visibility specified in section 49-623(3), Idaho Code. It is sufficient proof that a reasonable person knew or should have known that the visual or audible signal given by a peace officer was intended to bring the pursued vehicle to a stop.

As noted, Anderson first contends that the State presented insufficient proof that a reasonable person, under the facts of this case, “knew or should have known that the visual or audible signal given by a peace officer was intended to bring the pursued vehicle to a stop.” *Id.* Anderson

asserts that the State failed to prove that he knew or should have known that the activation of the overhead lights on the patrol car by the officers intended to bring his vehicle to a stop. Secondly, Anderson claims that the evidence was insufficient to establish that he was willfully fleeing or attempting to elude the officers. Anderson argues that, in order to prove the union of act and intent, I.C. § 18-114, i.e., willfulness of his actions, the State was required to but failed to prove that he was actually aware of the visual signal given by the police officers and, thereupon, was intending to elude. The State cites to I.C. § 18-101(1) which states that “the word ‘wilfully,’ when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to.” Additionally, a jury may infer intent from a defendant’s acts or conduct. *State v. Mitchell*, 146 Idaho 378, 384, 195 P.3d 737, 743 (Ct. App. 2008).

Upon review of the trial transcript, substantial evidence was presented at trial upon which a reasonable trier of fact could have found that the prosecution sustained its burden of proving each and all of the essential elements of the crime beyond a reasonable doubt. The State presented evidence at trial that prior to the events in question, officers had been to Anderson’s house with a warrant for his arrest on an unrelated charge and people at the house were advised that the officers were looking for Anderson. Officers Moulton and Deede, in a marked patrol car, observed Anderson in the driver’s seat of a vehicle stopped at a stop sign. Officer Deede testified that he made eye contact with Anderson who stared at the officers and who had a “look of shock or fear on his face.” Officer Moulton performed a U-turn to get behind Anderson’s vehicle and activated the overhead lights and turned on the video camera in the patrol car. Anderson accelerated “extremely fast” through the intersection causing his vehicle to swerve and admittedly drove 50 miles-per-hour in a 25 mile-per-hour residential zone. The officers pursued Anderson with the overhead lights activated for several blocks. There is no dispute that the portion of the pursuit with the overhead lights activated lasted approximately eighteen seconds. However, after Anderson ran a stop sign and made a wide turn into oncoming traffic, the officers broke off the pursuit so as not to endanger the public. Ultimately, the officers were unable to keep up with Anderson and lost sight of him after he ran a second stop sign and sped around a corner. The State presented testimony that the configuration of lights used on the patrol car were visible in the daytime and that other persons had heeded the lights when activated during the daytime. However, Anderson contends that no evidence was presented that the lights were

visible on the day in question or when used for less than 20 seconds. Anderson testified that he had recently had a fight with his girlfriend and was upset. He contended that he did not see the officers or their pursuit and that his driving was the product of his anger over the fight, not knowledge of officer pursuit or intent to elude.

As noted, in regard to a claim of insufficiency of the evidence, we consider the evidence in the light most favorable to the prosecution, and if there is substantial evidence upon which a reasonable trier of fact could have found that the prosecution sustained its burden of proving the essential elements of a crime beyond a reasonable doubt, the finding of guilt will not be overturned. *Herrera-Brito*, 131 Idaho at 385, 957 P.2d at 1101. Substantial evidence does not mean that the evidence need be uncontradicted:

All that is required is that the evidence be of such sufficient quantity and probative value that reasonable minds could conclude that the verdict of the jury was proper. It is not necessary that the evidence be of such quantity or quality that reasonable minds must conclude, only that they could conclude.

Mann v. Safeway Stores, Inc., 95 Idaho 732, 736, 518 P.2d 1194, 1198 (1974). Based upon the evidence, the jury could conclude that Anderson, under the reasonable person standard, knew or should have known that the visual signal given by the officers was intended to bring the pursued vehicle to a stop and that he was willfully fleeing or attempting to elude the officers. After reviewing the entire record, there is substantial evidence upon which the jury could find the essential elements of the crime charged beyond a reasonable doubt.

III.

CONCLUSION

Substantial evidence was presented at trial upon which the jury could find the essential elements of the crime charged. Therefore, Anderson's judgment of conviction is affirmed.

Judge GUTIERREZ and Judge MELANSON, **CONCUR.**